

Honorable Tiffany M. Cartwright

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

Zafar Iqbal,

Petitioner,

v.

Laura HERMOSILLO, *et all.*,

Respondents.

Case No. 2:26-cv-00171-TMC

PETITIONER'S TRAVERSE

Note for Consideration:
February 4, 2026

INTRODUCTION

Respondents do not meaningfully rebut Petitioner's constitutional claim. Respondents' emphasis on ICE's asserted statutory detention authority under 8 U.S.C. § 1225(b) is not relevant. The issue is not whether Respondents have the authority to detain "applicants for admission," but whether the process by which Respondents revoked Petitioner's liberty and effectuated re-detention satisfied the Fifth Amendment. Respondents did not and cannot demonstrate that any constitutionally sufficient process took place prior to the re-detention of Petitioner, thus the Court should grant the habeas petition and order Petitioner's release from detention.

///

///

ARGUMENT

I. The Due Process Clause - not § 1225(b) - Forms the Basis of Petitioner's Re-Detention Claim.

Respondents argue that due process did not require Petitioner, Zafar Iqbal (Mr. Iqbal), to be afforded a pre-deprivation hearing because a pre-deprivation hearing would have been “futile as his detention is based on mandatory detention.” Dkt. 8, 8. The question is not whether ICE has the authority to detain individuals under 8 U.S.C. § 1225(b), but rather if ICE complied with due process in re-detaining Mr. Iqbal. Respondents’ argument that Mr. Iqbal is lawfully detained without a re-determination hearing because of §1225(b) has been rejected in countless cases. Another court in this District granted relief in a closely analogous re-detention case, explaining that:

To the extent that the Government’s briefing suggests that Section 1225(b) should be the beginning and end of the Court’s inquiry, this position is emphatically rejected. In determining the lawfulness of Petitioner’s detention, the Court will focus not on the Government’s claimed authority to detain, but the process by which Petitioner was detained.

P.T. v. Hermosillo, No. 2:25-cv-02249-KKE, 2025 WL 3294988, at *3 n.1 (W.D. Wash. Nov. 26, 2025); *see also, e.g., Francois v. Wamsley*, No. C25-2122-RSM-GJL, 2025 WL 3063251, at *3 (W.D. Wash. Nov. 3, 2025).

As Respondents concede, multiple district courts, including courts in *this* District, have held that due process requires notice and a pre-deprivation hearing before a neutral decision maker. *E.A.T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1323 (W.D. Wash. 2025); *see also, e.g., Tomas Manuel v. Hermosillo*, No. C25-2353-TL-MLP, 2025 WL 3690778 (W.D. Wash. Dec. 10, 2025) (“Setting aside Respondents’ statutory interpretation, which recent decisions of the Court have cast into doubt, the government must still comply with constitutional requirements.”), *report and recommendation adopted*, 2025 WL 3697277 (Dec. 19, 2025); *Ramirez Tesara*, 2025 WL

1 3288295, at *5 (recognizing the petitioner’s liberty interest notwithstanding government’s
2 assertion that he is subject to mandatory detention under § 1225(b)); *cf. Y.M.M. v. Wamsley*, No.
3 2:25-cv-02075, 2025 WL 3101782 (W.D. Wash. Nov. 6, 2025); *Ledesma Gonzalez v. Bostock*, --
4 - F. Supp. 3d ---, 2025 WL 2841574 (W.D. Wash. Oct. 7, 2025).

5 Respondents do not contest that the *Mathews v. Eldridge* test is appropriate here, but state
6 that noncitizens’ liberty interests are not the same as U.S. citizens’ liberty interests. Dkt. 8 at 6.
7 However, this argument “does not negate Petitioner’s liberty interest” in avoiding arbitrary re-
8 detention. *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *3 (W.D.
9 Wash. Sept. 17, 2025). It is undisputed that Respondents previously released Mr. Iqbal from
10 immigration custody, that he participated in his immigration proceedings as instructed, and that
11 thereafter Respondents took Mr. Iqbal into immigration custody without notice and a hearing prior
12 to his re-detention. Accordingly, the three *Mathews* factors weigh in favor of affording notice and
13 a hearing prior to any re-detention—procedures that Respondents indisputably failed to provide,
14 rendering Mr. Iqbal’s detention unconstitutional.

15
16 **II. Mr. Iqbal’s alleged ATD Violations do not Negate his Constitutional Right to**
17 **a Pre-Deprivation Hearing.**

18 In addition to arguing that a pre-deprivation hearing was irrelevant because Mr. Iqbal is
19 subject to mandatory detention, Respondents also argue that they were not required to provide a
20 pre-deprivation hearing to Mr. Iqbal because of his Alternative to Detention (“ATD”) violations.
21 DKT. 8, 8. The ATD violations were pretextual and thus are not a basis to argue that Mr. Iqbal did
22 not deserve a pre-deprivation hearing. Even if the ATD violations were a valid reason for re-
23 detaining Mr. Iqbal, the violations do not mean that Mr. Iqbal should not have received a pre-
24 deprivation hearing.
25

a. Mr. Iqbal's Alleged ATD Violations Were a Pretextual Reason for his Detention.

The evidence demonstrates that Mr. Iqbal's alleged ATD violations were pretextual excuses for his re-detention because ICE did not care about the violations until they needed an excuse to re-detain him. In *E.A. T.-B. v. Wamsely* the court granted Petitioner's habeas petition and expressed concern that "Petitioner's arrest was not in fact motivated by his ATD violations" because of the timeline of the alleged violations, the Government's actions and the petitioner's reduced ATD reporting requirements and work authorization. 795 F. Supp. 3d 1316, 1322 (W.D. Wash. 2025). Here, in Mr. Iqbal's case, the same concerns apply- there was a significant time delay between Mr. Iqbal's alleged final violation¹ and his re-detention, all the while his ATD reporting requirements had been reduced and he had been granted work authorization. Dkt. 2, Exh. A, 4. Respondents submitted evidence that Mr. Iqbal's last alleged ATD violation was on July 8, 2025. Dkt. 9, 2. Mr. Iqbal was re-detained on January 3, 2026. Thus, he was re-detained 179 days after his last "infraction." If the government was concerned about Mr. Iqbal being a flight risk or danger to the community because of these violations it would have acted in a timely manner. Rather, the delay suggests that ICE decided to re-detain Mr. Iqbal first, then searched for a reason to justify his re-detention. Respondents cited *Martinez Hernandez v. Andrews*² for the proposition

¹ Respondents also allege that Mr. Iqbal had an emergency report for tampering with his GPS ankle monitoring unit on September 3, 2024. Dkt. 9, 2. As this was more than a year before Mr. Iqbal was re-detained, the ATD program removed his ankle monitoring after Mr. Iqbal's successful compliance with the program, and the lack of information about whether the emergency report was even considered an ATD violation there does not seem to be an argument that this was a basis for his re-detention.

² Even in this case cited by Respondents the court granted petitioner's motion for preliminary injunction finding that the petitioner demonstrated a likelihood of success on the merits of his due process claims. *1:25-CV-01035 JLT HBK*, 2025 WL 2495767, *18 (E.D. Cal. Aug. 28, 2025).

1 that ATD violations could arguably be a basis for re-detaining an individual without a pre-
2 deprivation hearing. Dkt. 8, 7-8. However, in *Martinez Hernandez*, the petitioner was arrested 15
3 days after his last infraction. *1:25-CV-01035 JLT HBK, 2025 WL 2495767, *5* (E.D. Cal. Aug. 28,
4 2025). Additionally, the petitioner's record indicated "numerous" violations, including- "several
5 missed/failed virtual and/or home visits; 'master zone leave alerts' and missed callbacks related to
6 his tracking device, and referencing others listed in Petitioner's A-File" not to mention that the
7 petitioner had also been arrested for robbery, preventing/dissuading a victim/witness, assault with
8 a deadly weapon, and battery. *Id.* at *4 & 18.

10 In addition to the significant time delay between Mr. Iqbal's alleged final ATD violation
11 and his re-detention, Respondents submitted no evidence that the ATD violations were the reason
12 for the detention. The evidence submitted shows that his ATD violations were noted *after* he had
13 been re-detained. Respondents submitted a copy of Mr. Iqbal's I-213. Dkt. 10-2. The I-213, while
14 noting that Mr. Iqbal had ATD violations did not say that it was a reason or the reason that Mr.
15 Iqbal was detained. *Id.* at 3. Additionally, the I-213 was clearly written after Mr. Iqbal had been
16 detained because the I-213 described how Mr. Iqbal was detained. *Id.* Additionally, the I-200
17 Warrant For Arrest made no mention that Mr. Iqbal was being arrested because of his ATD
18 violations. Dkt. 10-4. *See Also Martinez Hernandez, 2025 WL 2495767* ("The fact that the
19 violations were not referenced on the I-200 arrest warrant is troubling...") *18. Because the ATD
20 violations are a pretextual excuse for Mr. Iqbal's re-detention the government has illegally re-
21 detained him.

22 ///

23 ///

24 ///

b. Even if Mr. Iqbal's Alleged ATD Violations Were Not Pretextual His Constitutional Rights Were Still violated When he Was Not Afforded a Pre-Deprivation Hearing.

Even if the ATD violations were not just a pretextual reason for arresting Mr. Iqbal, Respondents have not demonstrated that the ATD violations precluded providing Mr. Iqbal a pre-deprivation hearing. In *E.A. T.-B. v. Wamsley* the court found that even if the petitioner's arrest was not pretextual and was only because of his ATD violations it does not "necessarily follow that Petitioner can be detained for those violations with a hearing." 795 F. Supp. 3d 1316, 1322 (W.D. Wash. 2025). Respondents cited *Martinez Hernandez v. Andrews*, for the claim that ATD violations could make it "impractical and/or would have motivated flight" but Respondents make no arguments as to how Mr. Iqbal's ATD violations would have made a pre-deprivation hearing impractical or motivated his flight. Rather, Respondents argue that Mr. Iqbal was not entitled to a pre-deprivation hearing because he is subject to mandatory detention. Mr. Iqbal has complied with all Immigration Court requirements, he has resided at the same address and worked at the same job since June of 2023, he has a work permit that is valid until December 3, 2029 and has a pending application for asylum and a U visa. Dkt. 2, Exh. A, 4. His reporting requirement decreased over time because of his excellent compliance. *Id.* Thus, a pre-deprivation hearing was not impractical nor would have motivated Mr. Iqbal's flight as evidenced not only by the facts above but also evidenced even in the encounter when Mr. Iqbal was re-detained. ICE knocked on his door and he answered the door and allowed the officers to enter his home. Dkt. 2, 5 & Dkt. 10-2, 3.

CONCLUSION

For all of the foregoing reasons, Petitioner respectfully requests that this Court grant a writ of habeas corpus, order his immediate release, and enjoin Respondents from re-detaining him absent notice and a pre-deprivation hearing at which Respondents must justify danger to the

1 community or flight risk by clear and convincing evidence and that no alternative to detention
2 would mitigate those risks.
3
4

5 Respectfully submitted this 1st day of February 2026.

6 s/ Anna Ciesielski
7 Anna Ciesielski
8 Email: anna@oregonimmigrationgroup.com

9 Anna Ciesielski
10 PO Box 13764
11 Portland, OR 97213
12 (503) 548-1575

13 s/ Shara Svendsen
14 Shara Svendsen, WSBA No. 38151
15 Email: shara@svenlaw.com

16 Law Office of Shara Svendsen PLLC
17 16300 Mill Creek Blvd. STE 206
18 Mill Creek, WA 98012
19 425-361-1511

20 *Attorneys for Petitioner*
21
22
23
24
25

26 I certify that this traverse and response contains 1600
27 words, in compliance with the Local Civil Rules.